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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Tadashi Ezaki

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11/09/2006

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EXAMINER

CERVETTI, DAVID GARCIA

ART UNIT

PAPER NUMBER

2136

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/869,258

Applicant(s)

EZAKI, TADASHI

Examiner

David G. Cervetti

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 41-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 and 64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's arguments filed August 24, 2006, have been fully considered but they are not persuasive.
2. Claims 1-40 and 64 are pending and have been examined. Claims 41-63 have been withdrawn.

### *Response to Amendment*

3. The objections to the specification are withdrawn.
4. The rejection of claims 2, 4-6, 8, 10-18, 20, 22-24, 26, 28-36, 38, and 40 under 35 U.S.C. 112, second paragraph, is withdrawn.
5. The rejection of claims 37-40 under 35 U.S.C. 101 is withdrawn.
6. Regarding Applicant's argument that the prior art does not teach conditioning the output of contents on the basis of a "survival rate", Examiner respectfully submits that the prior art teaches "auxiliary information" which clearly reads on the purpose assigned to the "survival rate".
7. Applicant's arguments are not persuasive.
8. **Applicant has not traversed the examiner's use of official notice with regards to the claimed limitations found in claims 11, 15, 29, and 33, these features are taken by the examiner to be admitted prior art since the applicant has not adequately challenged the examiner's use of official notice (see MPEP 2144.03(c), 2144.04).**

***Claim Rejections - 35 USC § 103***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**10. Claims 1-40 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawara et al. (US Patent 6,278,836, hereinafter Kawara).**

**Regarding claims 1, 19, and 37, Kawara teaches an information processing device for controlling an output of contents (abstract), characterized by comprising:**

- a digital watermark information detection section for detecting a information of digital watermark information distributed with said contents **(col. 10, lines 30-67); and**
- a control section for controlling the output of said contents on the basis of said information **(col. 12, lines 1-44);**
- wherein said information is a value determined according to a predetermined reference value and the amount of detected watermark over a predetermined period **(col. 12, lines 1-44).**

Kawara does not expressly disclose detecting the survival rate of the digital watermark. However, Kawara provides "auxiliary information for controlling reproduction of main information" **(col. 10, lines 35-48)**. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include in that "auxiliary information" information that may help in order to control reproduction. One of ordinary skill in the art would have been motivated to perform such a modification

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because it was well known in the art to use auxiliary information to provide copyright protection (**Kawara, col. 13, line 50 to col. 14, line 45**).

**Regarding claims 2, 20, and 38**, Kawara teaches characterized in that the output contents are to be recorded on a recording medium (**col. 35, lines 27-61**).

**Regarding claims 3, 21, and 39**, Kawara teaches characterized in that said digital watermark information contains first control information indicating whether or not to output the contents, and second control information indicating whether or not to output the contents when said survival rate is less than or equal to a predetermined threshold, said digital watermark information detection section detects said first and second control information, and said control section controls the output of said contents on the basis of said first and second control information (**col. 13, line 50 to col. 14, line 45**).

**Regarding claims 4, 22, and 40**, Kawara teaches characterized in that said digital watermark information contains output qualification information; said digital watermark information detection section detects said output qualification information, and said control section controls the output of said contents on the basis of said output qualification qualified information (**col. 13, line 50 to col. 14, line 45**).

**Regarding claims 5 and 23**, Kawara teaches characterized in that said output qualification information is information for restricting the quality of output of said contents (**col. 17, lines 30-67, col. 18, lines 1-9**).

**Regarding claims 7 and 25**, Kawara teaches characterized in that said control section inhibits the output of said contents when said survival rate is less than or equal to a predetermined threshold **(col. 13, line 50 to col. 14, line 45)**.

**Regarding claims 9 and 27**, Kawara teaches characterized in that said control section restricts the output of said contents on the basis of said output qualification information when said survival rate is less than or equal to a predetermined threshold **(col. 13, line 50 to col. 14, line 45)**.

**Regarding claims 8, 10, 26, and 28**, Kawara teaches characterized in that said threshold is included in said digital watermark information **(col. 13, line 50 to col. 14, line 45)**.

**Regarding claims 11, 15, 29, and 33**, Kawara is mute regarding digital watermarks strong/weak to compression. However, these features have been admitted per applicant to have been conventional and well known to digital rights management systems at the time the invention was made.

**Regarding claims 12 and 30**, Kawara teaches characterized in that said digital watermark information strong to compression contains the output qualification information, said digital watermark information detection section detects said output qualification information, and said control section controls the output of said contents on the basis of said output qualification qualified information **(col. 13, line 50 to col. 14, line 45)**.

**Regarding claims 13 and 31,** Kawara teaches characterized in that said output qualification information is information for restricting the quality of output of said contents (col. 17, lines 30-67, col. 18, lines 1-9).

**Regarding claims 6, 14, 24, and 32,** Kawara teaches characterized in that said output qualification information is information for defining a data compression method to be applied to said output contents (col. 10, lines 35-48).

**Regarding claims 17 and 35,** Kawara teaches characterized in that said control section restricts the output of said contents on the basis of said output qualification information when said survival rate is less than or equal to a predetermined threshold (col. 13, line 50 to col. 14, line 45).

**Regarding claims 16, 18, 34, and 36,** Kawara teaches characterized in that said threshold is included in said digital watermark information strong to compression (col. 13, line 50 to col. 14, line 45).

**Regarding claim 64,** Kawara teaches characterized in that said control section controls the output of said contents on the basis of said first control information if said survival rate is greater than said predetermined threshold, and controls the output of said contents on the basis of said second control information if said survival rate is less than said predetermined threshold (col. 13, line 50 to col. 14, line 45).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitui et al. (US Patent 6,937,553) teach restricting quality of recorded contents, Cox et al. (US Patent 6,154,571) teach using robust watermarking.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David G. Cervetti whose telephone number is (571) 272-5861. The examiner can normally be reached on Monday-Friday 7:00 am - 5:00 pm, off on Wednesday.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser G. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DGC

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11/06/06